Analysis of the Economic Impact of the Registered Pledge System in Poland

The Gdansk Academy of Banking

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1. IDENTIFICATION OF FACTORS DYNAMISING THE DEVELOPMENT OF THE SYSTEM OF THE REGISTER OF PLEDGES IN POLAND AND OF BARRIERS INHIBITING THIS GROWTH

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The access of small and medium-sized enterprises to external finance is one of the main conditions of the economic development of each country. To receive a bank loan, the main external source of finance for the company's activity, from a financial institution, the borrower has to present a relevant collateral for the repayment of funds. The efficient system of the registered pledge, as a potential credit collateral, may contribute to increasing the accessibility of corporate loans, including especially loans for SMEs, the entities' eagerness to invest and their competitiveness in the integrated European market.

Some properties of an accurately operating system of the registered pledge and the register of pledges are as follows:

- common and open entries in the register;
- easy and fast establishment of pledges and acquisition of information from the register,
- certainty and security of data in the register, guaranteeing the security of economic trading,
- low costs of fees for entries to / amendments in / deletion from the register of pledges.

Comparing to the survey carried out in 2002[1] by the Gdansk Institute for Market Economics (Institute) together with East-West Management Institute (EWMI), including a number of recommendations to improve the operation of the institution of the registered pledge, no significant changes have been introduced to the process of establishing the registered pledge.

The main barriers for the development of the registered pledge in Poland were:

- long-lasting review of the pledge registration (deletion) application,
- high costs of establishing the registered pledge ,
- relatively big number of formalities connected with court proceedings (judges analysing the content of pledge agreements, complex catalogue of ways of describing the objects of the pledge, imprecise

1 Analysis of the Economic Impact of the Registered Pledge System in Poland, The Gdansk Institute for Market Economics, East-West Management Institute, Gdansk, April 2002.

regulations for registration proceedings in the Act, and the necessity to apply common rules of the Civil Proceeding Code related to non-litigious proceeding);

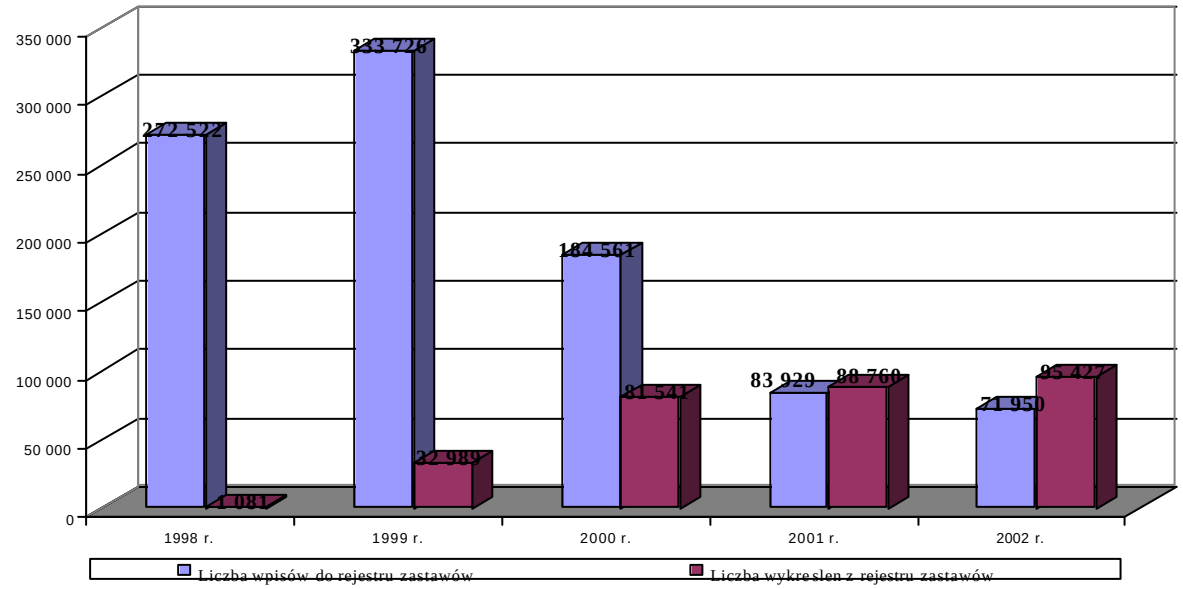
- lack of common practice and interpretation of the provisions of the Act on the registered pledge and the register of pledges among judges.

According to our expectations, the role of the registered pledge decreased, which, for sure, makes the market less attractive for the credit capital.

A great decrease in the number of pledge registration applications submitted in 2000 – 2001 was connected, among others, with the stagnation in the car sales market. However, we should underline that already in 2002 the lending business of car banks (for new cars) grew by 19.4 percent[2], and during three quarters of 2003 by 26. 5 percent[3], whereas in the meantime the number of pledge registration applications was still dropping. Thus, we may not confirm, for sure, that there is a positive correlation between the development of car sales market and the rate of interest in the registered pledge.

Due to difficulties connected with establishing the registered pledge, banks and financial institutions are less and less interested in this form of collateral. According to data of the Ministry of Justice, in 2002, 72 thousand pledges were entered to the register, i.e. 14 percent less than during a previous year. At the same time, as of 2001, the number of entries deleted from the register exceeds the number of new pledge registration applications.

Chart 1.
Number of applications submitted and deleted from the register of pledges



Source: Gdansk Academy of Banking, The Gdansk Institute for Market Economics based on data of the Ministry of Justice

[2] *Jada pod prad* (Against the Stream), Gazeta Bankowa, May 12, 2003.
[3] *Auto za pozyczone* (Car on Credit), Rzeczpospolita, Ekonomia i rynek, October 17, 2003.

Table 1. Number of entries to and deletions from the register of pledges during 1998 - 2002

Court	Year	Number of entries to the register of pledges	Number of deletions from the register of pledges	Notes
District Court in Bialystok, 10th Economic Department of the Register of Pledges	1998	0	0	
	1999	3 643	24	As of June 1999
	2000	5 101	584	
	2001	3 077	1 107	
	2002	3 720	1 459	
	1998 – 2002	**15 541**	**3 174**	
District Court in Gdansk, 13th Economic Department of the Register of Pledges	1998	30 817	61	
	1999	44 185	3 531	
	2000	23 501	9 677	
	2001	10 715	12 700	
	2002	8 940	11 388	
	1998 – 2002	**118 158**	**37 357**	
District Court in Katowice, 12th Economic Department of the Register of Pledges	1998	82 829	107	
	1999	73 256	7 344	
	2000	29 256	19 575	
	2001	9 680	18 781	
	2002	7 210	19 662	
	1998 – 2002	**202 231**	**65 469**	
District Court in Kraków, 7th Economic Department of the Register of Pledges	1998	51 157	161	
	1999	36 279	6 455	
	2000	18 803	16 709	
	2001	8 189	12 502	
	2002	7 279	11 808	
	1998 – 2002	**121 707**	**47 635**	
District Court in Lódz, 15th Economic Department of the Register of Pledges	1998	0	0	
	1999	9 305	51	As of June 1999
	2000	14 816	1 350	
	2001	6 858	2 818	
	2002	5 972	3 694	
	1998 – 2002	**36 951**	**7 913**	
District Court in Lublin, 12th Economic Department of the Register of Pledges	1998	22 219	166	
	1999	38 770	3 772	
	2000	13 770	9 318	
	2001	5 604	8 082	
	2002	5 957	8 584	
	1998 – 2002	**86 320**	**29 922**	
District Court in Poznan, 16th Economic Department of the Register of Pledges	1998	51 333	378	
	1999	43 489	9 206	
	2000	24 426	15 153	
	2001	13 921	15 078	
	2002	10 615	16 426	
	1998 – 2002	**143 784**	**56 241**	
District Court in Rzeszów, 10th Economic Department of the Register of Pledges	1998	0	0	
	1999	4 998	17	As of June 1999
	2000	9 467	880	
	2001	4 183	1 812	
	2002	3 521	2 261	
	1998 – 2002	**22 169**	**4 970**	
District Court in Warsaw, 18th Economic Department of the Register of Pledges	1998	34 167	208	
	1999	79 801	2 589	
	2000	34 252	8 175	
	2001	14 208	14 734	
	2002	11 655	17 690	
	1998 – 2002	**174 083**	**43 396**	
District Court in Wroclaw, 7th Economic Department of the Register of Pledges	1998	0	0	
	1999	0	0	
	2000	11 169	120	As of Feb. 2000
	2001	7 494	1 146	
	2002	7 081	2 455	
	1998 – 2002	**25 744**	**3 721**	

Source: Gdansk Academy of Banking, The Gdansk Institute for Market Economics based on data of the Ministry of Justice

The survey shows that the pledged register is mainly applied by financial institutions to secure their receivables from business entities. The share of the registered pledge in the structure of collaterals of this group of customers is around 26 percent. Whereas, in the case of individuals, the registered pledge is a collateral for around 13 percent of receivables from this group of customers.

A positive phenomenon that took place before the end of 2001 is, first of all, shortening of the court proceedings (from 27 to 24 days), including the Warsaw court reviewing the biggest number of cases – from 96 to 36 days.

The Academy's analysis also shows that the period of review of applications at the registration courts is one of the main factors influencing the attractiveness of the registered pledge as a form of collateral. Still relatively quite a long time required to establish a pledge at the registration court in Poland causes that the pledge may not be the only collateral established by a financial institution, and some additional collaterals are required (bridge collaterals until the pledge is entered to the register of pledges), which increases already high costs of securing receivables with the registered pledge.

Table 2
Duration of proceedings in days

Court	2001	2002
Total	**27**	**24**
Warsaw	96	36
Bialystok	-	3
Gdansk	24	15
Katowice	18	12
Kraków	12	18
Lublin	18	12
Lódz	9	24
Poznan	12	12
Rzeszów	6	12
Wroclaw	12	12

Source: Ministry of Justice, Statistics Department

The registration procedure at the courts is also prolonged due to some other reasons. Registration courts sending correspondence to financial institutions do not indicate required reference numbers of cases, allowing for fast and simple identification of each application. The courts, assigning their individual reference number to each registration application, do not inform the banks about details

related to the case. When the bank submits several applications concerning the same parties, it is practically impossible to find out which application a given request to remove irregularities or an information about errors refers to, without contacting the court secretariat. At the same time, taking into account frequent difficulties in communication between the banks and the courts, it is a problem to remove irregularities, if any, within seven days.

Considering the attractiveness of the registered pledge in relation to other forms of collateral, it is especially important that the banks may reduce their specific provisions by the value of receivables secured with the pledge. However, since the period required to review registration applications is still relatively long, and the pledge is established only the moment it is registered (and not the moment the registration application is submitted to the court), the banks are not certain about their specific provisions, and they are additionally less interested in the registered pledge.

Financial institutions point out that the court proceeding which is highly formal (similarly like in the report on the survey carried out in 2002) reduces their interest in the registered pledge to secure their receivables. At first, they mention the requirement that they have to attach original or notarially confirmed powers of attorney of persons signing the application every time, which additionally increases the costs of the collateral. Secondly, financial institutions are still obliged to fill paper applications to register / change / delete their pledges from the register, which makes application filling time-consuming. Thirdly, judges still interpret the provisions of the Act on the registered pledge and the register of pledges differently. Fourthly, in some cases judges, referring to article 40 section 3 of the Act on the registered pledge and the register of pledges, reject the applications due to even the slightest drawbacks in the pledge agreement. In the opinion of financial institutions, the courts should register the pledge not including the questioned entry, unless the irregularity is significant and renders the registration impossible.

The Academy's survey shows that transcripts from the register are considered as unreliable sources of information. To have a complete picture of the burdens on a given thing, one has to obtain not one, but at least two transcripts with regard to one pledge. The brief transcript presents the number of pledge rights burdening the thing, whereas the complete transcript from the register refers only to a defined pledge right. Therefore, if in the brief transcript there are more than one pledge entry, one has to obtain complete transcripts for each of these rights. It prolongs the whole procedure of obtaining information from the register and makes it more expensive. The complete transcript from the register, where pledge

fields are numbered from item 1 may mislead the applicant that the pledge covered therein is the only pledge on the thing. Therefore, we do not understand why the regulators do not provide for procedural consistency in obtaining the information about the pledge comparing to the mortgages, where the transcript from section 4 presents all the existing rights[4].

The term of the registered pledge agreement of 30 days after its execution also rises some doubts of the banks. The pledge agreement secures a given loan resulting from a credit agreement concluded with the customer. If the registration court rejects the pledge registration application due to formal reasons, a given application must be revised within 7 days upon receiving the court's request. However, there arises a problem. Due to delays in application review by registration courts, the thirty-day term of the pledge agreement expires. Therefore, borrowers have to be involved again to prepare a new pledge agreement although it refers to the same credit agreement, and the only thing that changes is the date.

In its previous report, the Institute mentioned that there were no clear principles related to pledgees recovering their receivables. At present, financial institutions report further difficulties. It refers to the pledgee recovering his receivables under a guaranteed priority right, article 20 of the basic act, which is not consistent with the regulations of the civil procedure and reduces the protection of the application of another creditor. Such a situation takes place when the enforcement proceeding related to the thing burdened with the pledge is carried out at a request of a creditor other than the pledgee. Then, the pledgee, in the light of the binding procedure, is not the party of the proceeding, and he is also not entitled to make any claims in relation to the planned division of an amount executed on this thing. Therefore, the thing may be sold during the enforcement proceedings without the pledgee knowing about it and taking part in it. Thus, the justified interest of the pledgee is not sufficiently protected.

The financial institutions additionally indicated the following elements as barriers to the development of the registered pledge in Poland:

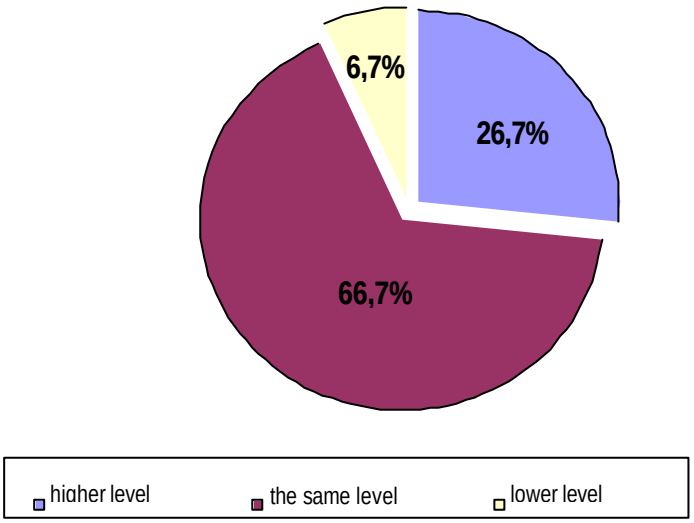
- the lack of or too slow communication between courts and financial institutions,
- insufficient access to data in the register of pledges for non-financial entities,
- limited access to information for banks since payments for enquiries have to be settled in cash,
- too small number of court units authorised to make decisions on the registered pledge,

[4] Opinion of one of financial institutions under analysis.

- delivering only decisions on pledge registration to parties of the proceeding, without any other decisions, e.g. on application return, as a result, the party that was not the applicant does not know what is going on,
- no adequate legal awareness among potential borrowers.

All the above weak sides of the system of the register of pledges and the registered pledge may have some impact on future interest in and use of the registered pledge as a form of collateral. The survey shows that two thirds of the banks under analysis, in future, intend to maintain the present level of registered pledges used.

Chart 2
Rate of use of the registered pledge in future

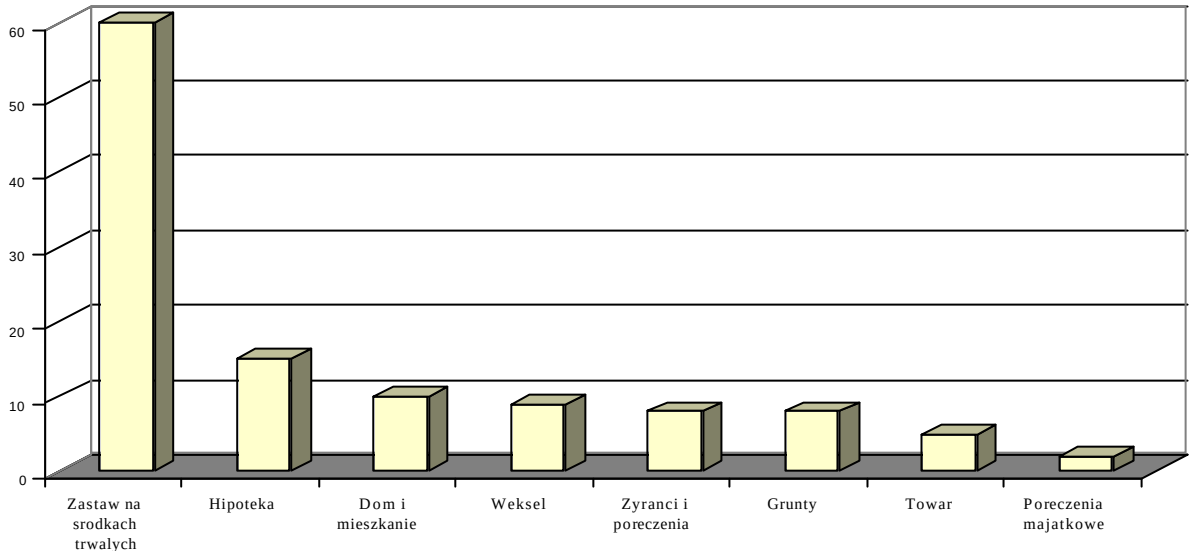


Source: Gdansk Academy of Banking, The Gdansk Institute for Market Economics

In the context of Poland accessing the structures of the European Union, we may expect that small and medium-sized enterprises will be greatly interested in Union funds. The Institute's survey shows that almost 75 percent of companies are willing to use various forms of Union aid, since for them it is a way of improving their competitiveness in the market. At the same time, we may expect that the co-operation of SMEs with credit institutions will be narrowing. It results from the fact that small and medium-sized enterprises acquiring Union funds, to finance their projects are usually forced to take a bank loan (around 25% of the project value), which will have to be secured, like other loans. From this point of view, the efficient system of the register of pledges will be one of crucial elements affecting the level of Union funds used and the competitiveness of the Polish SME sector.

The Academy's survey shows that difficulties of small and medium-sized enterprises to obtain a bank loan result from the necessity to present a relevant collateral to guarantee that the potential loan will be repaid. PKPP's research shows that the most frequent credit collateral is the pledge on fixed assets (the registered pledge) and mortgage.

Chart 3
Main forms of bank credit collaterals in the SME sector



Source: Standing of SMEs at the beginning of 2003, Polish Confederation of Private Employers, February 2003, p. 38

Given the Academy's research, we may conclude that the efficient institution of the registered pledge may greatly contribute to increasing the access of SMEs to loans. In the opinion of the financial institution, in spite of some weaker sides, the registered pledge is perceived as one of the best collaterals, entitling the creditor to a privileged position in the enforcement and bankruptcy proceedings. In addition, there is an open central register of pledges where each person interested may check whether a given thing or right is not the object of any pledge. At the same time, frequently the only possible form of collateral for loans for SMEs is the registered pledge or transfer of ownership rights. So far, financial institutions have chosen the transfer of ownership rights due to the long time required to register the pledge. From the borrower's point of view, the costs of registering the pledge are much lower than the costs of mortgage, and companies usually do not resist to establishing the collateral in the form of a pledge.

However, on the other hand, the main criterion for obtaining a loan is SMEs' creditworthiness, and not the efficient system of collaterals. In addition, the registered pledge requires additional borrower's operations to establish bridge collaterals, which significantly prolongs the lending process.

To improve the operation of the registered pledge and the register of pledges, we would have to introduce a number of changes (reported, among others, by financial institutions) corresponding to earlier reservations. Therefore, we would have to, for example:

1. Aim at shortening the registration time, decision-making process and time required to register the pledge;
2. Introduce single and transparent principles for pledgee's satisfying according to civil procedure,
3. Introduce electronic forms to register / change / delete the pledge from the register to be provided by the Ministry of Justice, which would reduce costs of register keeping by the State Treasury and number of operations required from banks,
4. Allow for electronic delivery of applications to the courts,
5. Make the regulations more flexible to minimise the cases where a pledge registration application may be rejected,
6. Simplify the catalogue of ways of description of the objects of the pledge to eliminate problems related to the classification of some objects of the pledge and individual judges' interpretations,
7. Introduce undefined term of a pledge agreement,
8. Establish court data bases including names of persons affixing their signatures on behalf of particular banks to be updated by the bank,
9. Introduce single interpretation of criteria for decisions to be made by judges.

Our postulates and recommendations made in 2002 are still valid and include, inter alias:

1. The reduction of the scope of registration court's cognition and releasing the parties from a duty to submit the pledge agreement to the register. The pledge registration proceeding should be a notification proceeding, and the registration should be based only on a brief document filled and signed by the parties. The form should present the whole content to be disclosed in the public register. The registration court should not deal with reviewing the compliance of the pledge agreement with the law, since it should not be submitted to the pledge register at all.
2. Regulations related to the registration proceeding should be more precise in the Act on the registered pledge and the register of pledges. General provisions of the Civil Proceedings Code on

non-litigious proceeding and registration proceeding should be waived to the benefit of principles of proceeding clearly defined in the Act.

2. REGISTERED PLEDGE AND OTHER LEGAL INSTRUMENTS USED TO SECURE RECEIVABLES. EXPERIENCE FROM 2001 – 2003 COMPARING TO CHANGES IN LAW *

(TOMASZ STAWECKI, PH. D. DEPT. OF LAW AND ADMINISTRATION OF WARSAW UNIVERSITY)

Comparing the operation of a certain legal institution, as of its legal incorporation to the discontinuation of its legal base, to human life, the registered pledge, stipulated in the Act of December 6, 1996 (Journal of Acts No. 149 item 703 et seq., hereinafter referred to as the „Act"), is getting matured. The following stages are already behind us:

- the period of waiting for its birth, i.e. year 1997 (*vacatio legis*),
- the period of crawling, rapid growth and children diseases, i.e. years 1998 – 2000, and
- the period of teenager independence and bringing-up problems (years 2001 – 2002).

The institution of the registered pledge was introduced to the legal system by the Act and accompanying regulations, came through the first years when everybody was learning to use this new form of collateral, and finally it experienced several years of operation according to statutory patterns, however rising a lot of criticism. The following elements were criticised at the same time:

- solutions stipulated directly in the Act,
- solutions stipulated in executive regulations, and
- practice constructed on the grounds of the binding provisions[5].

To identify to which extent the said irregularities of the registered pledge have been neutralised, or may be neutralised or removed, and which of them require primary legislation adjustments, we have to, first of all, analyse the development of this legal instrument. Thus, we have to check to which extent the legal shape of the registered pledge and other legal forms of collaterals have already been changed, and to which extent it is the continuation of original regulations.

The analysis of amendments in regulations on the registered pledge is even more interesting, since extensive legislation work, not only to adapt the Polish law to the European Union patterns, has been carried out in Poland for the last three years. It will be especially valuable to have a look at the operation

* The author would like to thank Att. Pawel Ignatjew from Baker & McKenzie for his comments concerning this text, including especially issues related to bankruptcy law.

[5] See, for example, my publication *„Analiza rozwoju systemu zastawu rejestrowego w Polsce jako formy zabezpieczenia wierzytelnosci. Odpowiedz na ankiete Instytutu Badan nad Gospodarka Rynkowa"* (Analysis of

of the registered pledge from the point of view of financial institutions[6]: banks, insurance companies, etc.

A starting point is the **hypothesis that the public criticism of the operation of the registered pledge and the register of pledges has not made public authorities and administration take up serious remedy measures. Especially, they have not updated the binding regulations. Thus, we are still users of a legal institution with significant drawbacks. Until the regulations on the registered pledge are not changed seriously, it is difficult to expect that the use of the registered pledge instead of other forms of collaterals for financial receivables should increase the security and materially strengthen the existing position of creditors.**

I. Amendments to the Act on the registered pledge and the register of pledges

Regulations setting forth the registered pledge and the register of pledges appear to be very stable. Excluding revisions and completions introduced to the Act still in 1997 and 1998, we must admit that the Act was updated only twice. Both amendments were adopted and enforced in 2000 and they referred to very specific aspects of the institution in question.

The first amendment, introduced by the act of May 24, 2000 on amendments to the Civil Proceedings Code (and others) (Journal of Acts No. 48 item 554), included only a modification to article 39 of the Act, amended already earlier in 1997. This regulation defined consequences of wrong submittal of a pledge registration application. Since the Civil Proceedings Code stipulates for so called registration procedure, the Act assumed only that „the pledge registration application that has not been paid shall be returned". Issues related to exceptions to the application form and its wrong filling were provided forth in article 130^1 § 1 of the Civil Proceedings Code, voided later by the Constitutional Tribunal[7].

The second update in 2000 (the act of June 29, 2000 on amendments to the bonds act and some other acts, Journal of Acts No. 60 item 702) introduced a detailed way of proceeding to secure receivables

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the development of registered pledge system in Poland, as a form of an instrument used to secure receivables. Response to the questionnaire of the Gdansk Institute for Market Economics*)* (May 2002).

[6] The term of a financial institution is understood here very broadly to cover, for example, Polish and foreign banks, and not in the meaning set forth in article 4 item 7 of the Act of August 29, 1997 (institutions other than banks).

[7] See the judgement of the Constitutional Tribunal of March 12, 2002 (ref. P 9/01 (Journal of Acts No. 26 item 265)).

resulting from bonds issue with registered pledges. The catalogue of persons authorised to represent pledgees (article 1 of the Act) was completed with „the holders of bonds issued under the bonds act and other debt papers issued on the grounds of relevant legal acts binding in OECD countries" (item 8). In this case, the pledge may be established to the benefit of all bond holders without their identification, however a pledge administrator has to be appointed (article 4 sections 2 and 3 of the Act). At the same time, instead of a pledge agreement, one has to present a resolution of a relevant issuer's body indicating the object of the pledge. This amendment let the banks perform a role of banks representatives acting to the benefit of bond holders pursuant to article 30 and subsequent articles of the Bonds Act of June 29, 1995 (Journal of Acts from 2001 No. 120 item 1300 et seq.). However, due to a relatively poor capital market in Poland and small number of issues, actual economic consequences of this Act update are limited.

As regards regulations on the registered pledge and the register of pledges, the analysis **confirms our hypothesis: except for the said updates, the Act has not been amended recently. No attempts of reforms recommended from time to time in the doctrine or legal publications have been taken**[8] to reduce time required to register the pledge in the register of pledges or to delete the existing registration. Executive regulations have not been amended or completed, either. The stability of regulations directly related to the registered pledge guarantees that they are certain for their addressees. However, here the regulators do not need to be proud of such a certainty of the law.

II. Registered pledge in the light of regulations on the operation of financial institutions

In spite of basic stability of the original text of the Act and executive regulations issued on the grounds of it, the position of the registered pledge in the system of Polish law and its actual role could be indirectly changed by regulators. To some extent, it resulted from the enforcement of other regulations, which, however, entail specific consequences due to establishing the registered pledge. From the point of view of financial institutions, the following regulations are important:

1. Some regulations expanded the use of the pledge register to new types of assets which were not subject to pledges earlier, or such a possibility rose some doubts. This refers, for example, to the provisions of the investment fund act of August 28, 1997, materially updated in 2002 (the act of April 22, 2002, final text in the Journal of Acts No. 49 item 448). They introduce a visible

principle that membership units of an open investment fund represent proprietary rights and they may not be sold by a member to third persons, but a pledge, including registered pledge or fiscal pledge, may be established on them (article 61 section 4 – 9 of the act). The pledgee may take advantage of the object of the pledge only as a result of the fund redeeming membership units when the fund company is presented with a pledge agreement.

We have to admit that the pledge on membership units of an open investment fund is an unusual construction since it provides the pledgee with some protection (the priority over other creditors of the member of an open investment fund), although it does not allow to sell such assets under agreements, or entitles third persons to make claims under an ordinary enforcement proceedings. Since these regulations have been operating for a short time, it is difficult to evaluate their practical consequences for open investment funds. I do not know either how the State Treasury may recover its receivables secured with a fiscal pledge, which is explicitly set forth in the act. The pledgee may only recover its receivables by presenting a pledge agreement, whereas in the case of a fiscal pledge, there is no such agreement, at all. It is likely that adequate documentation from the revenue, including transcripts from the central register of fiscal pledges will, *par analogiam*, justify claims towards the fund to redeem membership units. Undoubtedly, pledge regulations are perceived as valuable collaterals in the process of establishing new instruments for the financial market in Poland.

2. Another relatively new solution that may be applied by the banks and other financial institutions are warrants set forth in the act of November 16, 2000 on warehouses and amendments to the Civil Code, the Civil Proceedings Code and other acts (Journal of Acts No. 114 item 1191). It is assumed that warehouses may issue documents called warehouse receipts that are sold by endorsement and comprise two parts: a reverse that confirms that the warehouse is in the possession of things to be stored (e.g. agricultural goods or food), and a warrant confirming that the pledge was established on things to be stored. Such a solution is well-known in many countries in the world[9], although it is used only in specialised sectors of the financial and

[8] See for example: M. Penczar, T. Stawecki: *Nie zniechecac. Jak usprawnic funkcjonowanie zastawu rejestrowego i rejestru zastawów* (Don't discourage. How to improve the operation of the registered pledge and the register of pledges), „Rzeczypospolita" No. 119 (6196) of May 23, 2002.

[9] See: Jacek Golaczynski: *Zastaw na rzeczach ruchomych* (Pledge on movables), Edited by C.H.Beck, Warsaw 2002, p. 101, 172, 194-195. See also a fragment on warrants in France in: Tomasz Stawecki: *Zastaw rejestrowy i podobne formy rzeczowego zabezpieczenia wierzytelnosci w krajach Europy Zachodniej i Ameryki Pólnocnej* (Registered pledge and similar forms of tangible collaterals for receivables in Western Europe and North America) (in:) T. Stawecki, M. Tomaszewski, F. Zedler: *Ustawa o zastawie rejestrowym i rejestrze zastawów. Komentarz* (The act on registered pledge and the register of pledges. Comments.), Warsaw 1997, p. 183.

industrial markets. Maybe, we should also point out that, since a special document, i.e. the warehouse receipt, is used, warrants do not strengthen the institution of the registered pledge and the register of pledges. Its effectiveness *erga omnes* is not determined by disclosing a tangible right in the public register.

3. Consequences of a financial institution accepting the registered pledge as collateral for its receivables from third persons (customers, counterparties, etc.) are also the object of legal regulations. They are set forth in the ordinance of the Minister of Finance of December 10, 2001 on principles for establishing provisions for risks connected with banking activity (Journal of Acts No. 149 item 1672). Pursuant to the ordinance, the rating of risks borne by the banks due to their statutory activity depends on the establishment of a defined collateral, including registered pledge. As a rule, the banks are obliged to establish specific credit provisions. Such provisions are costs for the bank since funds allocated thereto „do not work", and they may not be used by the bank to grant further loans. Specific provisions may be reduced depending on the type of collateral accepted by the bank for a given loan. The amount which the provision base may be decreased by:

   a) in the case of the transfer of ownership rights to movables – may not be higher than 50% of the net selling value of a given movable thing and 50% of the original amount to be secured;
   b) in the case of the transfer of ownership rights to securities, excluding papers issued by the State Treasury, National Bank of Poland, central banks or governments of OECD countries, and other banks – may not be higher than 50% of their fair value;
   c) in the case of a pledge on a sea vessel (i.e. a sea mortgage or a pledge on a vessel not entered to the vessel register) or a pledge on an aircraft – may not be higher than 50% of an expert's evaluation and 50% of the original amount to be secured;
   d) in the case of a registered pledge on specific rights resulting from securities – may not be higher than 50% of their fair value;
   e) in the case of a registered pledge on movables – may not be higher than 50% of the net selling value of a given movable thing and 50% of the original amount to be secured (see § 6 of the ordinance).

   The above solutions are not completely new in the Polish law. A similar regulation was already stipulated by Resolution No. 8/1999 of the Banking Supervision Commission of December 22, 1999 on principles for establishing provisions for risks connected with the banking activity (Official Journal of NBP No. 26 item 43). However, in spite of amendments to the Accounting

Act and changes to competencies of central bodies of public administration in Poland, the confidence in the registered pledge (and, which is interesting, in the change of ownership rights to collaterals) has been maintained.

Of course, the said three legal regulations do not exhaust the list of regulations related to financial institutions providing for their specific duties concerning the establishment of pledges and registered pledges, issued or enforced for the last three years. The complete list of such regulations would also have to include, for example, the ordinance of the Government of September 3, 2002 on ways and terms of proceedings of brokerage houses and banks running brokerage activity, and banks keeping securities accounts (Journal of Acts No. 165 item 1354), which again sets forth detailed principles for establishing and using pledges on publicly traded securities, or the ordinance of the Minister of Finance of September 21, 2001 on the pattern of a register of transactions, its keeping and way of providing data from the register to the Chief Financial Information Inspector (Journal of Acts No. 113 item 1210), pursuant to which pledges established on specific conditions have to be registered.

The analysis lets us draw another conclusion, which also confirms the original hypothesis: **recently, regulations directly providing for the registered pledge have not been materially amended, and no other regulations targeted at banks and financial institutions that would significantly modify the operation of the registered pledge in Poland have been introduced.** The above examples show that pledge regulations have been introduced and amended in separated, very specialised areas of the economy and legal trading.

The only exception thereto is a comprehensive reform of the bankruptcy law in 2003, which was very important for the banks and other financial institutions. This issue is discussed below.

III. Registered pledge in the regulations of the new bankruptcy law

To find out whether the registered pledge is useful in the activity of banks and other financial institutions, it is especially important to take into account the position of a creditor secured in the case of debtor's insolvency or bankruptcy. The bankruptcy and remedy act of February 28, 2003 (Journal of Acts No. 60 item 535, hereinafter referred to as the **„new bankruptcy law"**) introduced significant amendments thereto. As of October 1, it replaced the bankruptcy law of 1934 (as updated in 1997, hereinafter referred to as the „**former bankruptcy law"**).

Six weeks after the new bankruptcy law came into force, it is obviously difficult to assess its consequences. However, we may undoubtedly indicate the most important differences between the former and new bankruptcy law. The comparison analysis should include basic issues crucial in the case of debtor's bankruptcy[10]:

a. The impact of the fact that the debtor's property is burdened with the registered pledge to initiate bankruptcy proceedings, i.e. does the pledge stops the debtor's bankruptcy inconvenient for his creditor?
b. The possibility of initiating and running bankruptcy proceedings if the debtor's property is burdened with the registered pledge[11];
c. The pledgee pursuing claims secured with a pledge on the bankrupt entity's property, including satisfying the creditor secured with a registered pledge if the bankrupt entity is sold;
d. The sequence of satisfying creditors secured with registered pledges comparing to other creditors of the bankrupt entity.

The comparison analysis of the former and new bankruptcy law by the above items lets us draw interesting conclusions:

Item 1 – Impact of the fact that the debtor's property is burdened with the registered pledge to initiate bankruptcy proceedings

The new bankruptcy law did not introduce any basic changes in relation to the bankruptcy law from 1934. Both acts similarly set forth that the registered pledge or other tangible rights are important for the court to announce the bankruptcy. Article 13 § 1 sentence 2 of the former bankruptcy law stipulated that „the courts may reject the motion if they find out that the debtor's assets bear a pledge, registered pledge or mortgage, and his remaining assets are not, of course, sufficient to cover the costs of proceedings". This rule was maintained in the new bankruptcy law (article 13 section 2), which only expands the scope of tangible rights taken into consideration while evaluating the bankruptcy capacity with fiscal pledge and sea mortgage. At the same time, it rejects an exception related to State-owned

[10] Making the analysis, I used the papers by F. Zedler, especially the article entitled *Dochodzenie wierzytelnosci zabezpieczonych rzeczowo w razie ogloszenia upadlosci wlasciciela mienia obciazonego, który nie jest dluznikiem osobistym* (Claiming secured receivables in the case of bankruptcy of an owner of assets pledged, who is not a personal debtor), „Przeglad Sadowy", No. 1/1999, p. 33 and subsequent pages.

[11] For the purpose of this document, we may skip an interesting, although more complex, problem of consequences of the bankruptcy for a creditor who secured his receivables pledging assets of the third person that is not bankrupt.

companies and companies with an exclusive share of the State Treasury (article 13 § 2 of the former bankruptcy law), which questioned the logic of the bankruptcy law.

The new regulations include a new principle that the courts may not reject the motion to announce the bankruptcy due to the fact that the debtor's property is pledged if it is likely that burdens on the debtor's property are inefficient under the new bankruptcy law, or if they were established to harm creditors. In such cases, the proceedings initiated by the motion to announce the bankruptcy may be more efficient, and Paul's claims, if any, do not require any separate proceeding. This regulation is not, however, targeted at financial institutions, since they rarely accept collaterals to be later questioned by other creditors, and apply very rigorous prudence standards. Whereas, undoubtedly, article 13 section 3 of the new bankruptcy law intends to question actions of a debtor and his partners, if any, weakening collaterals established to the benefit of the banks and other professional institutions.

It is also noticeable that article 13 sections 2 and 3 of the new bankruptcy law does not mention the transfer of ownership rights as collateral that has a formal impact on the court's decision to announce the bankruptcy. It results from the fact that assets transferred are not parts of the debtor's property in the understanding of article 13 section 1 of the new bankruptcy law. Therefore they are not taken into account while initiating the bankruptcy proceedings. Thus, we may assume that the pledge and the registered pledge (similarly to mortgage, sea mortgage and fiscal pledge) are considered as more reliable collaterals than the transfer of ownership rights, which does not need to be disclosed in public registers.

Item 2 – Possibility of initiating and running the bankruptcy proceedings if the debtor's property is burdened with the registered pledge

While discussing procedural issues, we also have to pay some attention to an amendment strengthening the position of a creditor secured with the registered pledge as regards the bankruptcy with the possible composition agreement (article 267 and subsequent of the new bankruptcy law). Pursuant to the bankruptcy law from 1934, the composition proceeding, by law (article 4 § 1 item 5), did not cover receivables secured with pledges, unless the creditor irrevocably waived this collateral. This

solution constituted a great difficulty if companies were to be restructured[12]. The creditors usually did not decide to waive their pledge since they would have to bear a risk of losing it if the court had not approved the composition, or the debtor had taken any unexpected actions. Thus, even companies that had some chances to remedy their situation had to announce the liquidation bankruptcy.

Whereas, the new bankruptcy law stipulates a specific status of tangible collaterals if the court announces the bankruptcy with the possibility of a composition agreement. At first, article 273 section 2 sets forth that the composition does not cover, for example, receivables secured on the bankrupt entity's property with a mortgage, pledge, registered pledge, fiscal pledge or sea mortgage unless the creditor agreed for that. Such an agreement does not, however, mean that he waives the pledge. Article 292 section 2 of the new bankruptcy law stipulates that if the secured receivables are covered with the composition proceeding, the rights resulting from the mortgage, pledge, registered pledge, fiscal pledge and sea mortgage established on the bankrupt entity's assets remain valid, but they secure the receivables up to the amount and on terms defined in the composition agreement. Thus, the failure of the composition proceeding does not subject the creditor to risk that he will lose his collaterals. In addition, according to the new regulations (article 291), the composition agreement does not violate the creditor's rights resulting from the mortgage, pledge, registered pledge, and sea mortgage, if they were established on the third person's property.

It is also worth noticing that the change of ownership rights was treated in a completely different way. Pursuant to article 271 of the new bankruptcy law, the composition agreement covers all receivables from the bankrupt entity generated before the day it was announced bankrupt, including receivables secured by means of transferring the ownership rights to things, receivables or other rights.

Such a solution means that new regulations guarantee more complete protection to creditors secured with the pledge (in various forms), whereas less attention is paid to the transfer of ownership rights. The pledgee may decide whether his receivables will come within the composition agreement, or he will try to satisfy them separately, whereas the creditor secured with the transfer of ownership rights does not have such a choice.

[12] It is enough to trace, for example, press information about attempts to restructure large companies, like Daewoo FSO Motor S.A. in Warsaw, showing problems connected with practically exclusion of secured

Item 3 – Pledgee's pursuing claims secured with the pledge on the bankrupt entity's property

The regulations of the former bankruptcy law (after its update in 1997) stipulated several principles having crucial consequences for creditors secured with the registered pledge:

a. If a thing being the object of the registered pledge was in the creditor's possession (which was rather a rare case), the creditor (pledgee) sold it himself in the free market in terms agreed with and under the control of the official receiver;
b. If the object of the registered pledge was at the official receiver's disposal, then it was the official receiver that was liable to sell it;
c. The secured creditor could satisfy its receivables only by means of public auction run according to enforcement proceedings set forth in the Civil Proceedings Code, or sales having a permit of a judge running the bankruptcy proceedings;
d. Revenue from sales of the object of the registered pledge did not come within the bankruptcy estate. (Opposite to the mortgage and ordinary pledge – see article 117 §§4 and 5 of the former bankruptcy law).

The above regulations, first of all, did not include the fact that the Act (on the registered pledge and the register of pledges) had stipulated for a wider range of ways for the pledgee to recover his receivables, not only through the sales under enforcement proceedings. All of them became, however, inefficient the moment the bankruptcy was adjudicated. It was impossible to apply the transfer of ownership rights to the object of pledge pursuant to article 22 of the Act. New regulations, chapter III title VII of the new bankruptcy law, comprise more precise provisions, which, at the same time, are consistent with the regulations on the registered pledge. We may describe as follows:

1. Ordinary liquidation sales is a solution applied only when specific regulations do not provide for any other solution (article 325 of the new bankruptcy law). The judge of the bankruptcy proceeding may give his consent to sell the real estate, but (which is new), he may define terms and conditions of such sales, or define another way for selecting a purchaser (article 326 section 1 of the new bankruptcy law);
2. If the object of sales is admitted to trading in the regulated market, the judge of the bankruptcy proceeding may agree that the sales transaction be run by a stock exchange broker. In such a case the judge may select the stock exchange or recommend its selection to the official receiver and define a minimum selling price (article 326 section 2 of the new bankruptcy law). Therefore,

creditors from the composition proceedings.

in the case of the registered pledge (or ordinary pledge) on publicly traded securities, which are considered as precious and highly liquid collateral, the regulations of the bankruptcy law do not provide for any obstacle or reason for delaying the debtor from satisfying his receivables.

3. In addition, the new bankruptcy law explicitly stipulates that the pledgee of the registered pledge may satisfy from the object of the pledge by taking it over or selling it in a way defined in article 24 of the Act (on the registered pledge and the register of pledges) if the pledge agreement envisages such a way for pledgee's satisfaction (article 327 section 1 of the new bankruptcy law, see also article 311 section 2).

The material and legal regulation is also completed with elementary procedural rules. Pursuant to article 328 section 1 of the new bankruptcy law, if the object of the registered pledge which the creditor may satisfy from is in the possession of the official receiver, the creditor is entitled to take over this object, and the judge shall define the term for the creditor to exercise this right, not shorter than one month. After the expiry of this term, the object of the pledge will be sold according to the new bankruptcy law. This regulation, of course, makes the pledgee's duties more restrictive, but this duty should not be considered as worsening the position of financial institutions. Banks must often deal with debtors having many creditors and establishing tangible collaterals to the benefit of many of them. Thanks to more rational way of satisfying these creditors, the creditor's rights may be protected more effectively.

Similarly, if the thing burdened with the registered pledge is in the possession of the official receiver, and the pledge agreement provides for the pledgee's satisfying his claims according to article 23 of the Act (on the registered pledge and the register of pledges), the official receiver shall sell this thing according to the new bankruptcy law.

4. Earlier known regulations of the bankruptcy law introduced so that the establishment of collaterals did not block the whole bankruptcy proceedings were also ordered. Thus, if a thing burdened with the registered pledge is in the possession of the pledgee or third persons, the pledgee is obliged to notify the official receiver of that. The judge of the bankruptcy proceeding may define a term for the pledgee to satisfy from the object of the pledge. Only if the pledgee does not exercise this right within such a term, a person holding the thing burdened with the registered pledge is obliged to hand it over to the official receiver. When the object of the pledge is handed over, the official receiver shall sell it. The selling price obtained shall be divided

according to articles 336 and 340 of the new bankruptcy law. [The evaluation of such a restriction on the pledgee is similar to the one presented above in item 3].

5. The new bankruptcy law also introduces an important restriction to the pledgee's possibilities to satisfy from the object of the registered pledge. Since, if the „object burdened with the register pledge" is an element of the bankrupt company, and it may be more profitable to sell it along with the company than separately, provisions of the new bankruptcy law on taking over or fast sales of the object of the registered pledge do not apply (article 330 section 1 of the new bankruptcy law). In such a case, the object of pledge is sold along with the company, and the value of the thing burdened with the pledge (it should be rather understood as the „object of the pledge" since it does not be a thing in the understanding of article 45 of the Civil Code) is separated from the company's selling price and allocated to satisfy the pledgee according to articles 336 and 340 of the new bankruptcy law.

   The above regulation on the sales of the company seems not to apply to cases when the pledge refers to the debtor's assets forming the company in its tangible meaning (article 55^1 of the Civil Code and item B 1 of the Catalogue of ways of describing the object of the registered pledge), or organised parts of the company (item B 3 of the Catalogue of ways of describing the object of the registered pledge). They are treated as separate objects of the pledge, which entitles the pledgee to satisfy its receivables under article 327 section 1 of the new bankruptcy law.

Item 4 – Sequence and scope of satisfying the creditors secured with the registered pledge comparing to other creditors of the bankrupt entity

Apart from making the initiation and execution of the proceedings dependent on the pledgee and issues related to the efficiency of satisfaction of the pledgee's rights from the object of pledge, the third key criterion of the evaluation of the binding law, from the point of view of interests of financial institutions in the case of bankruptcy proceedings, is the sequence and scope of satisfying the pledgees' receivables.

The former regulations did not favour creditors secured with the pledges. As a rule, all funds obtained due to the sales of the object of pledge were included to the bankruptcy estate and they were divided among creditors of the bankrupt entity according to the following sequence (article 204 § 1 of the former bankruptcy law):

1. At first, various costs of bankruptcy proceedings, expenses connected with the management and liquidation of the bankruptcy estate, remuneration for work and pensions due to compensations for causing any diseases, disability to work, handicappedness or death, support for the bankrupt entity and his family and his maintenance allowances, etc. were covered;
2. Then, the funds of the bankruptcy estate were allocated to repay receivables resulting from the activity of the official receiver or the manger of separated property; receivables resulting from agreements concluded by the bankrupt entity before going bankrupt, the execution of which was requested by the official receiver etc.
3. Thirdly, but still before the pledgee, the funds were allocated to recover receivables of the State Treasury due to taxes and receivables of the Social Insurance due to social insurance premiums secured with the mortgage, pledge, entry to the ship register or a right to seize – up to 50% of the price obtained from the sales of the thing burdened or from exercising the tradable right burdened;
4. Only then could the creditor secured with the pledge, mortgage, entry to the ship register or right to seize be satisfied. The satisfaction of debts was made up to the price obtained from the sales of the thing burdened or from exercising the tradable right burdened, but if the price obtained from the sales was not sufficient to satisfy all secured receivables, these receivables were satisfied according to their priority.

   In practice, the creditor secured with the pledge knew that, due to privileged creditors (especially the State Treasury and the Social Insurance), **less than a half of his receivables secured with the pledge would be satisfied.**

   Only the creditor secured with the registered pledge took advantage of a special privilege resulting from article 117 § 5 of the former bankruptcy law: the object of the pledge was sold at auction or in the free market, and the price earned deducted by costs of sales was paid to the creditor. The remaining amount, if any, was added to the bankruptcy estate.

The regulations of the new bankruptcy law waived the principle of funds division which deprived the creditor of a half of its collateral. **The new bankruptcy law expanded the special regulation related to the registered pledge (article 117 § 5) to other tangible collaterals. At present, other creditors having tangible collaterals may also take advantage of the privilege guaranteed in the past only to the creditors secured with the registered pledge.** As a rule, funds obtained from the sales of things or rights burdened with the tangible collateral, including the registered pledge, are allocated to satisfy the creditors whose receivables were secured on the rights or things sold. The amounts

remaining after the satisfaction of secured receivables, if any, come within the bankruptcy estate (article 336 of the new bankruptcy law). This principle is completed with article 345 of the new bankruptcy law, according to which the receivables secured with the pledge or registered pledge (as well as mortgage, fiscal pledge, sea mortgage) shall be satisfied from the amount obtained from the sales of objects burdened deducted by costs connected with sales (section 1). The receivables are satisfied according to priority rights. In such a way, the Polish bankruptcy law fully respects old Romanian rule „First in time, first in right". Additionally, the regulations of the new bankruptcy law stipulate that interest covered with collaterals and costs of proceeding up to the amount not exceeding one tenth of the principal are satisfied along with the receivables (article 345 section 3 of the new bankruptcy law).

Summing up the amendments introduced by the Bankruptcy and Remedy Act of 2003, we should assume that, from the point of view of the creditors secured with the registered pledge or other tangible collaterals, the following provisions are the most important:

1. As regards the initiation of the bankruptcy proceeding, the creditor that is secured practically on the whole debtor's property, which is common in relations with institutions, may not allow to announce the bankruptcy since it would deprive him of a significant part of funds due to his collaterals;
2. Debtor restructuring processes based on composition proceeding, not weakening the existing tangible collaterals, are simpler;
3. Ways of satisfying the pledgees are easier and more efficient, and at the same time they are adjusted to the provisions of the Act;
4. Relations between the secured creditors of the bankrupt entity and the State Treasury and the Social Insurance are regulated.

IV. Final conclusions

The above considerations on amendments to the Polish law concerning the registered pledge and other collaterals let us draw several important conclusions, confirming the hypothesis assumed at the beginning:

1. Recently, the provisions stipulating the registered pledge have not been changed significantly, and other regulations providing for the operation of banks and financial institutions and the use of the registered pledge have been changed only slightly;

2. Basic weaknesses and drawbacks of the registered pledge indicated a year or two years ago have not been changed, and at present there is no basis to expect that they will be changed. Since as long as poor regulations are binding and set forth the registered pledges and proceeding of parties of pledge agreements, the existing practice will remain stable;
3. An important, but the only solution strengthening the registered pledge as the legal collateral for the receivables of the banks and financial institutions from their customers (e.g. borrowers) is the reform of the bankruptcy law in 2003. It does not improve the operation of the register of pledges or removes restrictions and doubts connected with the pledge agreement, but it causes that it is more attractive to establish the pledge for corporate creditors since it reduces their financial risks connected with their debtor's insolvency;
4. We also would like to point out that the new bankruptcy and remedy law guarantees slightly bigger protection to the creditors secured with the registered pledge than to the creditors secured with the transfer of ownership rights. **However, it is a matter of different distribution of stress, and not a radical change to the legal and economic status.**

3. EVALUATION OF THE OPERATION OF THE REGISTERED PLEDGE SYSTEM IN THE POLISH BANKING SECTOR

(*KRZYSZTOF PIETRASZKIEWICZ, POLISH BANK ASSOCIATION*)

The moment the 6.12.1996 Act on the registered pledge and the register of pledges came into force (1.1.1998), the institution of the registered pledge was defined as a modern and simple instrument to secure receivables, which was to make economic trading safer.

While applying the regulations of the Act in practice, already since the very beginning, we have recorded a number of problems connected with its operation in the banking sector. Issues mentioned most often by the banks are as follows:

1. Long-lasting procedure at the registration courts. It takes at least 4 to 6 months to register the pledge. It causes that the banks are often forced to request their customers to provide other forms of collateral till the pledge is registered, or they resign from the registered pledge as the collateral at all.
2. Costs of registering, deleting the pledge or obtaining any information, etc. are high, and the registered pledge is not used to secure small consumer loans.
3. Excessive formalities of the registration procedure:
   - ? Too big formal requirements related to registration application filling. Applications are returned even if minor information is missing, which, given a one-month period as of the pledge agreement conclusion till the submittal of the application to the registration court (article 3 section 3), causes that the whole operation has to be started anew and a new pledge agreement has to be concluded;
   - ? Registration courts require official transcripts from commercial registers to evidence rights to sign registration applications (no reference to transcripts submitted with another application is allowed), articles of association of the banks, credit agreements, copies of car registration cards, etc.
4. Court's judgements are not uniform:
   - ? It often happens that judges working at the same departments give different judgements. Some judges register the pledge on the grounds of several identical applications, and the others reject such applications, or have them returned;
   - ? Some registration courts do not observe an exception from the pledge accessorial principle stipulated in article 18 section 1;

- ? The requirement of the Securities Commission permit for the bank to accept pledge securities (article 22) is treated in various ways;
- ? Definition of the amount of receivables secured with the pledge (article 3 section 1 item 4). Some courts assume that receivables due to loans and interest are undefined receivables the moment the pledge agreement is concluded, and the application should indicate the biggest amount of the collateral; whereas other courts claim that these are defined receivables and the amount of the existing receivables should be given;
- ? The courts interpret differently the description of pledge objects according to the catalogue. Some pledge objects are difficult to classify to a specific group of the catalogue.

5. The procedure of entering and deleting annotations about the registered pledge to and from the car registration card is intricate. Pursuant to the Ordinance of the Minister of Transport and Sea Management of September 22, 2000 on making annotations on the registered pledge in the vehicle registration cards7, it is not possible to make any annotation in the registration card based on the transcript from the registered pledge decision. Therefore, the pledgor has to obtain a certificate (PLN 15) and needs some more time. On the other hand, the procedure of deleting the annotation is especially troublesome for the pledgor. Although the loan has been repaid, due to long-lasting procedure of deleting the pledge from the register (only then the annotation may be deleted from the car registration card), in practice the car owner may not freely dispose (sell) it. It rises many claims of customers who are usually directed to the banks.
6. Intricate procedure if the object of the pledge is to be changed at the customer's request, which often happens when one want's to change a card while repaying a car loan.
7. There are no executive regulations (article 24 section 2) which would let the bank satisfy its receivables from the pledge object during an auction to be carried out by the notary public or executor.
8. The pledge may not be established by an entity not having Regon or Pesel (for example foreigners).

All the above issues, comparing to the simple and free operation of previous institution of the bank registered pledge (article 308 of the Civil Code), cause that the registered pledge is assessed negatively, and the banks generally give this form of legal collateral up in favour of the transfer of ownership rights to movables, mortgages and private collaterals.

Therefore, I would like to present my proposals of solutions and recommendations for the update of regulations related to the registered pledge:

1. The scope of the registration court's cognition should be restricted only to the verification of the compliance of a pledge agreement with the Act on the registered pledge and the register of pledges.
2. The application submittal term should be prolonged to 6 months.
3. The statutory term for application review should be defined, for example 30 days (at least in the form of an instruction).
4. It should be possible to apply article 130 of the Civil Proceeding Code.
5. The Minister of Justice should issue executive regulations based on the statutory delegation stipulated in article 24 section 2.
6. The Ordinance of the Minister of Transport and Sea Management of September 22, 2000 on the way of making annotations on the registered pledge in car registration cards should be amended to allow for deleting the annotations in the registration cards at the pledgor's (bank's) request).
7. The catalogue should be completed with the following item: objects whose brand has been defined.
8. The way for the Securities Commission issuing its permit to accept securities should be defined.
9. The banks should have an access to the Central Information about the Registered Pledges on-line.
10. The regulations on fees should be amended to provide for proportional or minimum and maximum fees so that it is possible to apply the registered pledge to secure small consumer loans.
11. Adequate amendments should be made to the Act to eliminate various interpretation of individual registration courts.
12. The number of registration courts or points accepting the pledge registration applications should be increased.
13. The work of the registration court secretariats should be improved; it should be possible to obtain information by phone.
14. The executive regulations should be changed to allow for establishing pledges by foreigners not having Pesel and Regon.

In my opinion the institution of the registered pledge will be more and more often applied by the banks, especially due to the content of article 1025 of the Civil Proceeding Code. However, to accelerate and improve the process, the above legislation and organisational changes have to be implemented. These changes will stop banks giving up the registered pledge in favour of other forms of collateral, and they will make the registered pledge system more efficient in the Polish banking sector.